

# Bill Summary Comparison of Health and Human Services

House File 1233, 1st Unofficial  
Engrossment

House File 1233-3

Article 11: Home Care Providers

Article 11: Home Care Providers

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Section	Article 11: Home Care Providers		Article 11: Home Care Providers
1	<b>Section 1 (13.381, subdivision 2)</b> updates a cross-reference.	Senate only	
2	<b>Section 2 (13.381, subdivision 10)</b> clarifies that data regarding home care and hospice providers background studies are governed by section 144A.476, subdivision 1.	Senate only	
3	<b>Section 3 (144.051, subdivision 3)</b> creates a new subdivision specifying what data collected from home care providers falls under the definition of “private data on individuals.”	Technical differences. Staff recommends Senate.	<b>Section 1. Data classification; private data.</b> Amends § 144.051 by adding subdivision 3. Classifies certain data collected, created or maintained by the commissioner of health as “private data” as defined in Minnesota Statutes, chapter 13.
4	<b>Section 4 (144.051, subdivision 4)</b> creates a new subdivision specifying what data collected from home care providers falls under the definition of “public data.”	Technical differences. Staff recommends Senate.	<b>Section 2. Data classification; public data.</b> Amends § 144.051, by adding subdivision 4. Classifies certain data collected, created or maintained by the commissioner of health as “public data” as defined in Minnesota Statutes, chapter 13.
5	<b>Section 5 (144.051, subdivision 5)</b> creates a new subdivision specifying what data collected from home care providers falls under the definition of “confidential data on individuals.”	Technical differences. Staff recommends Senate.	<b>Section 3. Data classification; confidential data.</b> Amends § 144.051, by adding subdivision 5. Classifies certain data collected, created or maintained by the commissioner of health as “confidential data” as defined in Minnesota Statutes, chapter 13.
6	<b>Section 6 (144.051, subdivision 6)</b> allows the Minnesota Department of Health (MDH) to share private or confidential data, except Social Security numbers, to the appropriate state, federal, and local government agency and law enforcement office for investigation or enforcement efforts.	House list of offices say “including, but not limited to.” Senate does not.	<b>Section 4. Release of private or confidential data.</b> Amends § 144.051, by adding subdivision 6. Permits the Department of Health to release private or confidential data, except for social security numbers, to state, federal or local agencies and law enforcement to enhance investigate or enforcement efforts or to further public health protection.
7	<b>Section 7 (144A.43)</b> lists definitions applicable to sections 144.699, subdivision 2 and 144A.43 to 144A.482.	Technical differences.	<b>Section 5. Definitions.</b> Amends § 144A.43. Modifies definitions of terms applicable to regulation of home care services as provided in Minnesota Statutes, §§ 144.699, subdivision 2, and 144A.43 to 144A.482.

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8	<p><b>Section 8 (144A.44)</b> modifies the “HOME CARE BILL OF RIGHTS” section.</p>	<p>Identical</p>	<p><b>Section 6. Home care bill of rights.</b> Amends § 144A.44. Makes technical changes and updates terminology. Combines enumerated rights related to being told provider charges for services and the extent to which, if known, payment can be expected from insurance, public programs or other sources. Adds to the list of enumerated rights: the right to be free from neglect, financial exploitation and other forms of maltreatment covered by the Vulnerable Adults Act and the Maltreatment of Minors Act; and the right to know a provider’s reason for terminating services. Modifies exceptions that apply to the right to 10-day advanced notice of termination of services.</p> <p>Provides that all home care providers must comply with the home care bill of rights and requires the commissioner to enforce the bill of rights against all home care providers regardless of licensure.</p>
9	<p><b>Section 9 (144A.45)</b> modifies the “REGULATIONS OF HOME CARE SERVICES” section.</p>	<p>Identical</p>	<p><b>Section 7. Regulation of home care services.</b> Amends § 144A.45. Makes technical changes and updates terminology. Modifies listed purposes of the commissioner’s regulation of home care providers. Makes conforming changes related to repeal of Minnesota Rules, chapter 4668. Requires the commissioner to inspect temporary licensees within one year of issuance of a temporary license and requires inspection of licenses at an interval that will promote the health and safety of clients. Removes provision related to Medicaid reimbursement for Class F providers. Removes provision related to licensed home care providers who provide Alzheimer’s disease services.</p>

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<b>10</b>	<b>Section 10 (144A.471)</b> creates a new section “HOME CARE PROVIDER AND HOME CARE SERVICES.”	Identical	<b>Section 8. Home care provider and home care services.</b> Adds § 144A.471. Requires home care providers to be licensed by the commissioner of health. Defines the phrases “direct home care service” and “regularly engaged” for purposes of license requirements. Establishes a misdemeanor for a home care provider who operates without a license. Establishes two categories of home care provider licensure: basic and comprehensive. Provides exemptions and exclusions from licensure, but specifies that exempted providers must still comply with the home care bill of rights.
	<b>Subdivision 1</b> requires home care service providers to be licensed by MDH.		
	<b>Subdivision 2</b> defines and describes “direct home care service.”		
	<b>Subdivision 3</b> defines and describes “regularly engaged.”		
	<b>Subdivision 4</b> states it is a misdemeanor to operate home care services without a license.		
	<b>Subdivision 5</b> requires a home care provider to have a basic or comprehensive home care license.		
	<b>Subdivision 6</b> requires providers of assistive tasks services be licensed under the basic home care license, and defines and describes “assistive tasks.”		
	<b>Subdivision 7</b> outlines the requirements for comprehensive home care licensure.		
	<b>Subdivision 8</b> lists the exemptions from home care service licensure.		
	<b>Subdivision 9</b> lists the exclusions from home care licensure.		
<b>11</b>	<b>Section 11 (144A.472)</b> creates a new section, “HOME CARE PROVIDER LICENSE; APPLICATION AND RENEWAL,” describing the license application and renewal process, including the fee schedule.	Identical, except House has paragraph (h) effective date. Senate has this effective date in section 28. Staff recommends House placement.	<b>Section 9. Home care provider license; application and renewal.</b> Adds § 144A.472. Specifies information that must be provided to the commissioner by applicants for a home care provider license. Requires applicants for a comprehensive home care license to provide verification of

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			certain policies and procedures. Includes license renewal provisions and requires licensees with multiple units to obtain separate licenses for each unit that cannot share supervision and administration. Prohibits transfer of any home care license. Sets fee schedule for initial licensure and license renewal fees.
12	<b>Section 12 (144A.473)</b> creates a new section, "ISSUANCE OF TEMPORARY LICENSE AND LICENSE RENEWAL," describing the temporary license application and renewal process.	Identical	<b>Section 10. Issuance of temporary license and license renewal.</b> Adds § 144A.473. Provides a process for temporary licensure, which is effective for one year, and requires inspection during that first year.
13	<b>Section 13 (144A.474)</b> creates a new section "SURVEYS AND INVESTIGATIONS."	Technical differences.	<b>Section 11. Surveys and investigations.</b> Adds § 144A.474. Requires the commissioner to conduct inspections of each home care provider, describes types of surveys to be conducted and the survey process, and requires that surveys and investigations be conducted without advance notice. Requires home care providers to provide accurate and truthful information and specifies certain information that must be provided upon request. Provides a process for correction orders, reconsideration and assessing fines. Specifies training requirements for surveyors.
	<b>Subdivision 1</b> requires MDH to survey each home care provider.		
	<b>Subdivision 2</b> lists and describes the various types of home care provider surveys: initial full survey, core survey, full survey, and follow-up survey.		
	<b>Subdivision 3</b> describes the core survey process.		
	<b>Subdivision 4</b> allows the surveys to be conducted without advance notice.		
	<b>Subdivision 5</b> requires home care providers to provide accurate survey information.		
	<b>Subdivision 6</b> requires home care providers to provide MDH with a list of current and past clients upon request.		

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	<b>Subdivision 7</b> allows surveyors to visit or interview clients without the home care provider’s knowledge.		
	<b>Subdivision 8</b> describes the correction orders process for license holders not in compliance with sections 144A.43 to 144A.482.		
	<b>Subdivision 9</b> describes the follow-up survey process for providers with Level III or IV violations.		
	<b>Subdivision 10</b> creates a performance incentive of ten percent off the home care provider license fee for no violations in the core or full survey.		
	<b>Subdivision 11</b> creates a fine structure and process for home care provider license violations.		
	<b>Subdivision 12</b> establishes and outlines the correction order reconsideration process.		
	<b>Subdivision 13</b> outlines the home care surveyor training requirements.		
<b>14</b>	<b>Section 14 (144A.475)</b> creates a new section, “ENFORCEMENT.”	Technical differences.	<b>Section 12. Enforcement.</b> Adds § 144A.475. Sets out enforcement provisions. Provides reasons for which the commissioner may refuse to grant or renew or may suspend or revoke a license. Requires that providers must request an appeal no later than 15 days after receipt of notice of an action. Restricts eligibility for certain licenses for certain providers after a license is revoked or not renewed for noncompliance.
	<b>Subdivision 1</b> lists the conditions that would allow MDH to refuse to grant a temporary license or renew a license, suspend or revoke a license, or impose a conditional license.		
	<b>Subdivision 2</b> lists the terms for license suspension or conditional licensure.		
	<b>Subdivision 3</b> requires MDH to notify license holders prior to suspending, revoking, or refusing to renew a license.		

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	<b>Subdivision 4</b> describes the time limit for appeals of civil penalties.		
	<b>Subdivision 5</b> requires suspension or revocation of licensure to include a plan to transfer affected clients to other home care providers; requires home care providers under suspension or revocation to provide MDH certain client information.		
	<b>Subdivision 6</b> prevents owners and managerial officials of home care provider agencies whose license has been denied renewal or revoked from receiving a home care provider license, or given special status as an enrolled PCA provider by DHS, for at least five years.		
	<b>Subdivision 7</b> outlines the request for hearing process.		
	<b>Subdivision 8</b> allows informal conference between home care providers or license applicants and MDH.		
	<b>Subdivision 9</b> allows MDH to bring action in district court to enjoin a person who is involved in the management, operation or control of a home care provider agency (or employee of an agency) from illegally engaging in home care services.		
	<b>Subdivision 10</b> gives the Commissioner of Health subpoena power in matters pending under home care services sections of law.		
<b>15</b>	<b>Section 15 (144A.476)</b> creates a new section, "BACKGROUND STUDIES."	Technical differences. Staff recommends Senate	<b>Section 13. Background studies.</b> Adds § 144A.476. Requires background studies for owners and managers of home care provider services and for employees, contractors and volunteers.
	<b>Subdivision 1</b> requires background studies of owners and managerial official prior to issuance of a temporary license or license renewal, and allows for a reconsideration if any individual is disqualified; defines owners and managerial officials of home care providers.		
	<b>Subdivision 2</b> requires background studies on all employees, contractors and volunteers of a home care provider.		

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16	<b>Section 16 (144A.477)</b> creates a new section, "COMPLIANCE."	Identical	<b>Section 14. Compliance.</b> Adds § 144A.477. Provides that the commissioner shall survey licensees under this chapter at the same time as for certification under Medicare, to the extent feasible. Provides that certain state regulations are equivalent to federal requirements for providers that are certified for participation in Medicare as a home health agency.
	<b>Subdivision 1</b> requires MDH to administer surveys to licensees at the same time as Medicare certification surveys, if feasible.		
	<b>Subdivision 2</b> allows comprehensive home care services license holders to meet several state license regulations if they are also certified to participate in Medicare as a home health agency; lists the applicable state regulations.		
17	<b>Section 17 (144A.478)</b> creates a new section, "INNOVATION VARIANCE," allowing specified alternatives to requirements Chapter 144A if certain conditions and application procedures are met; also describes the granting and denial process, revocation and denial of renewal process due to violations.	Identical	<b>Section 15. Innovation variance.</b> Adds § 144A.478. Defines "innovation variance" for purposes of this section. Establishes a process by which a provider may apply for and the commissioner may grant an innovation variance from requirements of this chapter.
18	<b>Section 18 (144A.479)</b> creates a new section, "HOME CARE PROVIDERS RESPONSIBILITIES; BUSINESS OPERATIONS," listing home care provider requirements for its business operations, including: license display, advertising, quality management, provider restrictions, handling of clients' finances and property, reporting of maltreatment of vulnerable adults and children, and employee record keeping.	Identical	<b>Section 16. Home care provider responsibilities; business operation.</b> Adds § 144A.479. Requires certain actions of home care providers with regard to business operations. Restricts non-governmental licensees from accepting powers-of-attorney from clients and from serving as a client's representative. Requires home care providers to report maltreatment of minors or vulnerable adults and must report suspected maltreatment. Requires each licensee to have an individual abuse prevention plan for vulnerable minors and adults for whom they provide services. Requires certain information to be kept as part of employee records.

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19	<p><b>Section 19 (144A.4791)</b> creates a new section, “HOME CARE PROVIDER RESPONSIBILITIES WITH RESPECT TO CLIENTS.”</p>	<p>Senate requires home care providers to make all reasonable efforts to provide written notice of rights in a language understood by the client or client’s representative.</p>	<p><b>Section 17. Home care provider responsibilities with respect to clients.</b> Adds § 144A.4791. Requires providers to give clients notice of their rights under the home care bill of rights. Provides special requirements for home care providers that serve clients with dementia. Sets out requirements for licensees related to only accepting clients for which the provider is qualified to provide services; making referrals when the provider reasonably believes medical services from another health care provider are required; assessment and monitoring of services provided under a basic- or comprehensive-level of licensure; actions required in response to a request to discontinue life-sustaining treatment; termination of services plans; emergency preparedness; and client complaint processes.</p>
	<p><b>Subdivision 1</b> requires home care providers to provide information on the Home Care Bill of Rights under 144A.44, along with information on how to file a complaint.</p>		
	<p><b>Subdivision 2</b> requires home care providers serving clients with Alzheimer’s disease or other dementia-related conditions to provide information on the training of employees to clients, families, and others requesting the information.</p>		
	<p><b>Subdivision 3</b> requires home care providers to inform clients of their level of licensure—basic or comprehensive—and obtain written acknowledgement that the information was provided to the client.</p>		
	<p><b>Subdivision 4</b> prevents home care providers from accepting clients if they do not have the proper staff to serve them.</p>		
	<p><b>Subdivision 5</b> requires home care providers to refer clients to another health service if it is believe they are in need of different care, and assist clients in obtaining new care.</p>		
	<p><b>Subdivision 6</b> describes the process for initiation of home care services.</p>		

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	<b>Subdivision 7</b> describes the process for providing an initial individualized review for clients using services provided by a basic home care provider.		
	<b>Subdivision 8</b> describes the process for providing an initial individualized review for clients using services provided by a comprehensive home care provider.		
	<b>Subdivision 9</b> outlines the process to be followed by home care providers for finalizing and implementing client’s written service plans.		
	<b>Subdivision 10</b> outlines the process and responsibilities to be followed by home care providers if they terminate a service plan.		
	<b>Subdivision 11</b> outlines the client complaint and investigation process.		
	<b>Subdivision 12</b> requires home care providers to have a written disaster and emergency preparedness plan.		
	<b>Subdivision 13</b> outlines the procedures to be followed by employees of home care providers if clients request discontinuation of life-sustaining treatment.		
<b>20</b>	<b>Section 20 (144A.4792)</b> creates a new section, “MEDICATION MANAGEMENT,” outlining processes and procedures for comprehensive home care providers who provide medication management services, including requirements for prescription, nonprescription, and over-the-counter medication.	Technical differences.	<b>Section 18. Medication management.</b> Adds § 144A.4792. Prohibits medication management under a basic home care license. Provides requirements for medication management under a comprehensive home care license.
<b>21</b>	<b>Section 21 (144A.4793)</b> creates a new section, “TREATMENT AND THERAPY MANAGEMENT SERVICES,” outlining the processes and procedures for comprehensive home care providers who provide treatment and therapy management services, including administration and documentation requirements.	Identical	<b>Section 19. Treatment and therapy management services.</b> Adds § 144A.4793. Prohibits treatment and therapy management under a basic home care license. Provides requirements for treatment and therapy management under a comprehensive home care license.

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22	<b>Section 22 (144A.4794)</b> creates a new section, “CLIENT RECORD REQUIREMENTS,” outlining the client record requirements, including the content of the information in the records, records transfers, and records retention.	Identical	<b>Section 20. Client record requirements.</b> Adds § 144A.4794. Regulates licensee maintenance of client records, including disclosure and access requirements; content requirements; and the duration of retention of records after client discharge or termination.
23	<b>Section 23 (144A.4795)</b> creates a new section, “HOME CARE PROVIDER RESPONSIBILITIES; STAFF,” outlining home care provider responsibilities with regard to staff training requirements for licensed health professionals and nurses, unlicensed personnel, contractors and temporary staff.	Identical	<b>Section 21. Home care provider responsibilities; staff.</b> Adds § 144A.4795. Provides requirements for the training and competency of staff providing home care services, including licensed health professionals and unlicensed personnel. Lists requirements for staff instructors and competency evaluators.
24	<b>Section 24 (144A.4796)</b> creates a new section, “ORIENTATION AND ANNUAL TRAINING REQUIREMENT,” outlining the licensing regulations and requirements training for all staff providing and supervising basic and comprehensive home care services.	Identical	<b>Section 22. Orientation and annual training requirements.</b> Adds § 144A.4796. Requires staff who provide or supervise direct home care services to complete certain orientation requirements. Requires special training for providers who provide services for clients with Alzheimer’s disease. Requires certain annual training for all staff who provide direct home care services.
25	<b>Section 25 (144A.4797)</b> creates a new section, “PROVISION OF SERVICES.”	Technical differences. Staff recommends Senate.	<b>Section 23. Provision of services.</b> Adds § 144A.4797. Requires licensees to make available a contact person for staff consultations, and under a comprehensive license, that person must be a registered nurse. Provides supervision requirements for staff who perform basic home care services and for staff who perform delegated nursing or therapy tasks.
	<b>Subdivision 1</b> requires basic home care providers to have a person available to staff for consultation on client’s or their provisions of service; requires comprehensive home care providers to have a registered nurse available to staff for consultation, and have the appropriately licensed health professional available if performing services such as therapies.		
	<b>Subdivision 2</b> establishes supervision requirements for staff performing basic home health services.		

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	<b>Subdivision 3</b> establishes supervision requirements for staff performing delegated nursing or therapy home care tasks.		
	<b>Subdivision 4</b> requires supervision activities documentation in personnel records.		
	<b>Subdivision 5</b> provides an exemption to this section for individuals licensed as home care providers.		
26	<b>Section 26 (144A.4798)</b> creates a new section, “EMPLOYEE HEALTH STATUS,” requiring home care providers to establish and maintain a tuberculosis prevention and control program according the Centers for Disease and Control and Prevention’s (CDC) most current guidelines, and follow current federal or state guidelines for prevention, control and reporting of HIV, hepatitis B and C viruses, and other communicable diseases.	Identical	<b>Section 24. Employee health status.</b> Adds § 144A.4798. Requires licensees to have in place a TB prevention and control program and requires providers to follow guidelines for prevention and control of other communicable diseases.
27	<b>Section 27 (144A.4799)</b> creates a new section, “DEPARTMENT OF HEALTH LICENSED HOME CARE PROVIDER ADVISORY COUNCIL,” creating an advisory council to provide advice to MDH on home care provider regulations.	Identical	<b>Section 25. Department of Health licensed home care provider advisory council.</b> Adds § 144A.4799. Requires the commissioner of health establish a home care provider advisory council to advise the commissioner on home care provider regulation including, but not limited to, regulation of community standards, enforcement of licensing standards and training standards.
28	<b>Section 28 (144A.481)</b> creates a new section, “HOME CARE LICENSING IMPLEMENTATION FOR NEW LICENSEES AND TRANSITION PERIOD FOR CURRENT LICENSEES,” allowing for temporary licenses to be issued to new licensees, and procedures and timelines for current licensees to receive new licenses under Chapter 144A.	Senate includes transition process for providers who change ownership. House does not. Senate includes effective date. House included this effective date in section 9. Staff recommend House placement.	<b>Section 26. Home care licensing implementation for new licensees and transition period for current licensees.</b> Adds § 144A.481. Requires temporary license applications to begin January 1, 2014. Provides that home care providers licensed under the current structure must apply for either a basic or comprehensive home care license beginning July 1, 2014. Requires that all home care providers have either a basic or comprehensive home care license by June 30, 2015. Specifies requirements for renewal licenses during transition period.

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29	<p><b>Section 29 (144A.482)</b> creates a new section, “REGISTRATION OF HOME MANAGEMENT PROVIDERS,” defining home management services, requiring home management services providers to receive a certificate from MDH, and establishing certification fees and requirements.</p>	Identical	<p><b>Section 27. Registration of home management providers.</b> Adds § 144A.482. Sets out requirements and regulation provisions for home management providers. Requires entities that operate home management services, such as housekeeping or meal preparation, to be registered with the commissioner of health. Provides an annual fee for this required registration.</p>
30	<p><b>Section 30</b> requires MDH to submit to the Legislature on home care licensing due each October 1 beginning in 2015, and to study the correction order appeal process with a report due to the legislature by February 1, 2016.</p>	Identical	<p><b>Section 28. Agency quality improvement program.</b> Requires the commissioner to establish a quality improvement program and submit an annual report to the legislature on home care licensing and regulatory activities. Specifies the commissioner shall study whether to add a correction order appeals process by an independent reviewer.</p>
31	<p><b>Section 31</b> requires MDH and DHS to develop an integrated licensing system for providers of home care services under Chapter 144A and home and community-based services waivers licensed under Chapter 245D, requiring only one license where there is jurisdictional overlap and outlining the process for how the two departments will coordinate the oversight of other licensees. A joint recommendations report is due to the Legislature by February 15, 2014.</p>	Identical	<p><b>Section 29. Integrated licensing system for home care and home and community-based services.</b> Requires the Department of Health’s compliance and monitoring division and the Department of Human Services’ licensing division to develop an integrated licensing system for providers who provide both home care services subject to licensure under Minnesota Statutes, chapter 144A and home and community-based services subject to licensure under Minnesota Statutes, chapter 245D.</p>
32	<p><b>Section 32</b> requires MDH to study the correction order appeal process with a report due to the legislature by February 1, 2016.</p>	Senate only	

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33	<p><b>Section 33</b> repeals <b>sections 144A.46</b> (current home care provider licensing section) and <b>144A.461</b> (current home management provider certification section); also repeals several <b>Minnesota Rules (parts 4668.0002; 4668.0003; 4668.0005; 4668.0008; 4668.0012; 4668.0016; 4668.0017; 4668.0019; 4668.0030; 4668.0035; 4668.0040; 4668.0050; 4668.0060; 4668.0065; 4668.0070; 4668.0075; 4668.0080; 4668.0100; 4668.0110; 4668.0120; 4668.0130; 4668.0140; 4668.0150; 4668.0160; 4668.0170; 4668.0180; 4668.0190; 4668.0200; 4668.0218; 4668.0220; 4668.0230; 4668.0240; 4668.0800; 4668.0805; 4668.0810; 4668.0815; 4668.0820; 4668.0825; 4668.0830; 4668.0835; 4668.0840; 4668.0845; 4668.0855; 4668.0860; 4668.0865; 4668.0870; 4669.0001; 4669.0010; 4669.0020; 4669.0030; 4669.0040; and 4669.0050)</b> related to home care licensure now codified in statute.</p>	Identical	<p><b>Section 30. Repealer.</b> (a) Repeals Minnesota Statutes §§ 144A.46 and 144A.461 (licensure and registration of home care services).</p> <p>(b) Repeals Minnesota Rules, chapter 4668 (home care licensure and class F home care providers). Repeals Minnesota Rules, chapter 4669 (home care licensure fees).</p>
34	<p><b>Section 34</b> makes this article effective the day following final enactment, unless another date is specified.</p>	Senate provides an immediate effective date for this act unless a different effective date is specified. House provides an immediate effective date.	<p><b>Section 31. Effective Date.</b> Provides an immediate effective date for this article.</p>